

*JUDGE RAKOFF*UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

LEONARDO PENA,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATED FILMED: AUG 19 2008

08 Cr.

*DR CRIM 750*COUNT ONE

The Grand Jury charges:

1. From at least in or about August 2007, up to and including at least in or about April 2008, in the Southern District of New York and elsewhere, LEONARDO PENA, the defendant, and others known and unknown, unlawfully, intentionally and knowingly did combine, conspire, confederate and agree together and with each other to violate the narcotics laws of the United States.

2. It was a part and an object of the conspiracy that LEONARDO PENA, the defendant, and others known and unknown, would and did distribute and possess with intent to distribute a controlled substance, to wit, one kilogram and more of mixtures and substances containing a detectable amount of heroin, in violation of Title 21, United States Code, Sections 812, 841(a) (1), and 841(b) (1) (A).

OVERT ACT

3. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt act, among others, was committed in the Southern District of New York, and elsewhere:

a. On or about April 2, 2008, LEONARDO PENA, the defendant, had a phone conversation with a co-conspirator not named as a defendant herein ("CC-1"), located in Bronx, New York, during which PENA and CC-1 arranged for the delivery of approximately three kilograms of heroin.

(Title 21, United States Code, Section 846.)

FORFEITURE ALLEGATION AS TO COUNT ONE

4. As a result of committing the controlled substance offense alleged in Count One of this Indictment, LEONARDO PENA, the defendant, shall forfeit to the United States pursuant to 21 U.S.C. § 853, any and all property constituting or derived from any proceeds the said defendant obtained directly or indirectly as a result of the said violations and any and all property used or intended to be used in any manner or part to commit and to facilitate the commission of the violation alleged in Count One of this Indictment.

5. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third person;

c. has been placed beyond the jurisdiction of the Court;

d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of said defendant up to the value of the above forfeitable property.

(Title 21, United States Code, Sections 841(a)(1), 846 and 853.)

Cynthia Camasquillo  
FOREPERSON

Michael J. Garcia  
MICHAEL J. GARCIA  
United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

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INDICTMENT

08 Cr. \_\_\_\_\_

(Title 21, United States Code, Section 846.)

MICHAEL J. GARCIA  
United States Attorney.

A TRUE BILL

Cynthia Panasquillo  
Foreperson.

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Cynthia

Popl King & Partners LLP  
, from Popl

(b)  
8/13/08